

22.606–22.607

that contractor the same as employees of contractors operating privately owned facilities.

(5) Indefinite-delivery contracts, including basic ordering agreements and blanket purchase agreements, are subject to the Act unless it can be determined in advance that the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement will not exceed \$10,000. A determination shall be made annually thereafter if the contract or agreement is extended, and the contract or agreement modified if necessary.

(b) [Reserved]

22.606–22.607 [Reserved]

22.608 Procedures.

(a) *Award*. When a contract subject to the Act is awarded, the contracting officer, in accordance with regulations or instructions issued by the Secretary of Labor and individual agency procedures, shall furnish to the contractor DOL publication WH-1313, Notice to Employees Working on Government Contracts.

(b) *Breach of stipulation*. In the event of a violation of a stipulation required under the Act, the contracting officer shall, in accordance with agency procedures, notify the appropriate regional office of the DOL, Wage and Hour Division (see 29 CFR part 1, Appendix B), and furnish any information available.

[61 FR 67411, Dec. 20, 1996, as amended at 71 FR 36932, June 28, 2006]

22.609 [Reserved]

22.610 Contract clause.

The contracting officer shall insert the clause at 52.222–20, Walsh-Healey Public Contracts Act, in solicitations and contracts covered by the Act (see 22.603, 22.604, and 22.605).

[61 FR 67411, Dec. 20, 1996]

Subpart 22.7 [Reserved]

48 CFR Ch. 1 (10–1–06 Edition)

Subpart 22.8—Equal Employment Opportunity

22.800 Scope of subpart.

This subpart prescribes policies and procedures pertaining to non-discrimination in employment by contractors and subcontractors.

[48 FR 42258, Sept. 19, 1983, as amended at 63 FR 70283, Dec. 18, 1998]

22.801 Definitions.

As used in this subpart—

Affirmative action program means a contractor's program that complies with Department of Labor regulations to ensure equal opportunity in employment to minorities and women.

Compliance evaluation means any one or combination of actions that the Office of Federal Contract Compliance Programs (OFCCP) may take to examine a Federal contractor's compliance with one or more of the requirements of E.O. 11246.

Contractor includes the terms "prime contractor" and "subcontractor."

Deputy Assistant Secretary means the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, or a designee.

Equal Opportunity clause means the clause at 52.222–26, Equal Opportunity, as prescribed in 22.810(e).

E.O. 11246 means Parts II and IV of Executive Order 11246, September 24, 1965 (30 FR 12319), and any Executive order amending or superseding this order (see 22.802). This term specifically includes the Equal Opportunity clause at 52.222–26, and the rules, regulations, and orders issued pursuant to E.O. 11246 by the Secretary of Labor or a designee.

Prime contractor means any person who holds, or has held, a Government contract subject to E.O. 11246.

Recruiting and training agency means any person who refers workers to any contractor or provides or supervises apprenticeship or training for employment by any contractor.

Site of construction means the general physical location of any building, highway, or other change or improvement to real property that is undergoing

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construction, rehabilitation, alteration, conversion, extension, demolition, or repair; and any temporary location or facility at which a contractor or other participating party meets a demand or performs a function relating to a Government contract or subcontract.

Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee)—

(1) For the purchase, sale, or use of personal property or nonpersonal services that, in whole or in part, are necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

Subcontractor means any person who holds, or has held, a subcontract subject to E.O. 11246. The term *first-tier subcontractor* means a subcontractor holding a subcontract with a prime contractor.

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

[63 FR 70283, Dec. 18, 1998, as amended at 68 FR 28082, May 22, 2003]

22.802 General.

(a) Executive Order 11246, as amended, sets forth the Equal Opportunity clause and requires that all agencies (1) include this clause in all nonexempt contracts and subcontracts (see 22.807), and (2) act to ensure compliance with the clause and the regulations of the Secretary of Labor to promote the full realization of equal employment opportunity for all persons, regardless of race, color, religion, sex, or national origin.

(b) No contract or modification involving new acquisition shall be entered into, and no subcontract shall be approved by a contracting officer, with a person who has been found ineligible by the Deputy Assistant Secretary for reasons of noncompliance with the requirements of E.O. 11246.

(c) No contracting officer or contractor shall contract for supplies or

services in a manner so as to avoid applicability of the requirements of E.O. 11246.

(d) Contractor disputes related to compliance with its obligation shall be handled according to the rules, regulations, and relevant orders of the Secretary of Labor (see 41 CFR 60-1.1).

[48 FR 42258, Sept. 19, 1983, as amended at 63 FR 70283, 70285, Dec. 18, 1998]

22.803 Responsibilities.

(a) The Secretary of Labor is responsible for the—

(1) Administration and enforcement of prescribed parts of E.O. 11246; and

(2) Adoption of rules and regulations and the issuance of orders necessary to achieve the purposes of E.O. 11246.

(b) The Secretary of Labor has delegated authority and assigned responsibility to the Deputy Assistant Secretary for carrying out the responsibilities assigned to the Secretary by E.O. 11246, except for the issuance of rules and regulations of a general nature.

(c) The head of each agency is responsible for ensuring that the requirements of this subpart are carried out within the agency, and for cooperating with and assisting the OFCCP in fulfilling its responsibilities.

(d) In the event the applicability of E.O. 11246 and implementing regulations is questioned, the contracting officer shall forward the matter to the Deputy Assistant Secretary, through agency channels, for resolution.

[48 FR 42258, Sept. 19, 1983, as amended at 63 FR 70283, 70285, Dec. 18, 1998]

22.804 Affirmative action programs.

22.804-1 Nonconstruction.

Except as provided in 22.807, each nonconstruction prime contractor and each subcontractor with 50 or more employees and either a contract or subcontract of \$50,000 or more, or Government bills of lading that in any 12-month period total, or can reasonably be expected to total, \$50,000 or more, is required to develop a written affirmative action program for each of its establishments. Each contractor and subcontractor shall develop its written affirmative action programs within 120 days from the commencement of its